

OLLERENSHAW et al

Appl. No. 10/067,331

October 20, 2003

REMARKS/ARGUMENTS

Reconsideration of this application and entry and consideration of the newly presented claims are respectfully requested.

Support for the new claims can be found throughout the application, including at page 3, lines 18-21, page 4, lines 6-18, page 5, lines 20-25 and page 8, 6-11.

Claims 15 and 16 stand rejected under 35 USC 101. Reconsideration of the rejection is requested as it is submitted that the recitation in instant claim 15 of "a water soluble globular protein" is narrower in scope than the recitation in claim 15 of the '229 patent of "a water soluble proteinaceous material". Withdrawal of the rejection is requested.

Claims 3-8 stand rejected s representing obviousness-type double patenting over claims 1-6 of USP '229. Submission herewith of a Terminal Disclaimer moots the rejection.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

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Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

OLLERENSHAW et al

Atty. Ref.: 1577-172

Serial No. 10/067,331

Group: 1615

Filed: February 7, 2002

Examiner: Fubura, B.

For: VASCULAR COATING COMPOSITION

* * * * *

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Your petitioner, CRYOLIFE, INC., a corporation having an office and place of business at 1655 Roberts Boulevard, NW, Kennesaw, Georgia 30144 represents that it is the assignee as recorded in an assignment at Reel 011433/Frame 0207, of all right, title and interest in and to Application Serial No. 10/067,331, filed February 7, 2002, for VASCULAR COATING COMPOSITION.

Your petitioner hereby disclaims the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,372,229 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to such patent granted on the above-identified application shall be the same as the legal title to the above-identified

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Patent No. 6,372,229, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,372,229 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The evidentiary documents accompanying this document or referred to above have been reviewed by the undersigned and it is certified that to the best of the assignee's knowledge and belief, title is in the assignee seeking to take action.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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P.05

OLLERENSHAW et al

Serial No. 10/067,331

CRYOLIFE, INC.

By:

Kirby S. Black

Name:

Kirby S. Black

Title:

Sr. Vice President R&D

Date:

9-3-03